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**CHAPTER 12-700 FRANCHISE TAX BOARD (FTB) AND FINANCIAL  
MANAGEMENT SERVICES (FMS) TAX REFUND INTERCEPT REGULATIONS**

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When used in these regulations, unless the context otherwise indicates:

- (a) (1) Adult disabled children -- means while a minor, was determined to be disabled under Title II or Title XVI of the Social Security Act.
- (2) Affidavit -- means a sworn statement in writing made under oath or an affirmation before an authorized officer.
- (3) Arrearages -- means unpaid child support payments for past periods owed by a parent who is obligated by court order to pay.
- (4) Assignment of Support Rights -- means an assistance eligibility requirement whereby all applicants/recipients must assign to the state all rights to support paid in their behalf or in behalf of a dependent child for whom assistance is sought or paid.
- (5) Assistance -- means recipient of California Work Opportunity and Responsibility to Kids (CalWORKs), Foster Care, former recipient of Aid to Families with Dependent Children (AFDC), and any federally funded program paid under Title IV-A of the Social Security Act.
- (b) Reserved
- (c) (1) Certify -- means to vouch formally under penalty of perjury for the accuracy of facts by a signed writing.
- (2) Child Support -- means a legally enforceable obligation assessed against an individual for the support of a dependent child.
- (3) Custodial Parent -- means the person with legal custody under a court order.
- (d) (1) Disability -- means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
- (2) District Attorney -- means the single organization unit located in the office of the district attorney (County Family Support Division) in each California county charged with the responsibility for enforcement of support orders.
- (e) Reserved

CHILD SUPPORT PROGRAM FTB INTERCEPT REGULATIONS		Regulations
12-701 (Cont.)		
<b>12-701</b>	<b>DEFINITIONS (Continued)</b>	<b>12-701</b>
(f)	(1) Federal Aid Categories -- means those aid programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, CalWORKs Legal Immigrants Family Group, CalWORKs Unemployed, CalWORKs Legal Immigrants Unemployed, Foster Care, Federal/Foster Care Voluntary, Emergency Assistance, Unemployed, and Emergency Assistance Foster Care.	
	(2) Financial Management Services (FMS) -- means the federal government agency responsible for collecting federal income taxes and administering the federal administration offset program. On January 1, 1999, the federal income tax refund offset program was transferred from the Internal Revenue Service (IRS) to the federal Department of the Treasury's FMS.	
	(3) Franchise Tax Board (FTB) -- means the state government agency in California responsible for collecting state income taxes.	
(g)	Reserved	
(h)	Reserved	
(i)	(1) Initiating State -- means the state in which a Uniform Interstate Family Support Act (UIFSA) proceeding is commenced and where the noncustodial (NCP) or custodial parent is located.	
	(2) Intercept -- means an amount of money taken from an obligated parent's state or federal income tax refund to satisfy a child support debt.	
	(3) Intercounty Cases -- means those cases in which another California county is involved in the tax intercept either as the submitting county or the county where the child support order was issued.	
	(4) Interstate Cases -- means those cases in which another state is involved in the tax intercept either as the submitting state or the state where the child support order was issued.	
(j)	Reserved	
(k)	Reserved	
(l)	Reserved	
(m)	(1) Medical needy only -- means any individual who has been determined eligible for or is receiving Medi-Cal under Title XIX of the Social Security Act, but is not receiving, nor deemed to be receiving aid under Title IV-A or IV-E of the Act.	
(n)	(1) Non-assistance -- means a Title IV-D case that is not currently receiving assistance under CalWORKs (which includes the legal immigrant program), Foster Care, and any federally funded program paid under Title IV-A of the Social Security Act.	
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Regulations	CHILD SUPPORT PROGRAM FTB INTERCEPT REGULATIONS	12-701 (Cont.)
12-701	DEFINITIONS (Continued)	12-701
	<p>(2) Noncustodial parent (NCP) -- means any individual who does not have primary physical custody of the child(ren) and who is legally responsible for providing financial support for the dependent child(ren).</p> <p>(3) Non-Federal Aid Categories -- means those non-assistance programs established under CalWORKs in which there is an assignment of support rights: CalWORKs Family Group, Non-Federal; CalWORKs Legal Immigrants Family Group, Non-Federal; CalWORKs Unemployed, Non-Federal; CalWORKs Legal Immigrants Unemployed, Non-Federal; and Foster Care, Non-Foster.</p> <p>(o) (1) Obligation -- means the amount of money to be paid as support by the absent or custodial parent pursuant to the terms of the court order.</p> <p>(2) Order -- means a direction of a magistrate, judge, or properly empowered administrative officer to a person, made or entered in writing.</p> <p>(p) Reserved</p> <p>(q) Reserved</p> <p>(r) (1) Registration -- means a procedure set up by state law to adopt a judgment of a foreign jurisdiction as if it were from a California court. This procedure is used to enforce the foreign judgment in California.</p> <p>(2) Responding State -- means a state receiving and acting on an interstate child support case.</p> <p>(s) (1) Spousal Support -- means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.</p> <p>(t) (1) Temporary Assistance for Needy Families (TANF) -- means the federal aid program which replaces the Aid to Families with Dependent Children (AFDC). The California aid program is California Work Opportunity and Responsibility to Kids (CalWORKs). The federal income tax refund and administrative offset programs require states to submit files as TANF or non-TANF.</p> <p>(2) Title II of the Social Security Act (Sections 202, 205, 216, 221, 222, 223, and 1102) - - means that portion of federal law establishing and prescribing the Old Age, Survivors, and Disability Insurance Benefits Program.</p> <p>(3) Title IV-D or IV-D -- of the Social Security Act (Sections 451, 452, 453, 454, 457, and 460) means that portion of the federal law establishing and prescribing the Child Support Enforcement Program.</p>	
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<b>12-701</b>	<b>DEFINITIONS</b> (Continued)	<b>12-701</b>
	<p>(4) Title XVI of the Social Security Act (Sections 202, 205, 216, 222, 223, 225, and 1102) -- means that portion of federal law establishing and prescribing the Supplemental Security Income for the Aged, Blind, and Disabled Program.</p> <p>(u) (1) Uniform Interstate Family Support Act (UIFSA) -- means a uniform law that permits establishment and enforcement of support orders when the child lives in one jurisdiction and the noncustodial parent lives in another.</p> <p>(v) Reserved</p> <p>(w) Reserved</p> <p>(x) Reserved</p> <p>(y) Reserved</p> <p>(z) Reserved</p> <p>NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Sections 103 [42 U.S.C. 401(a)] and 321 [42 U.S.C. 666]; Section 17400, Family Code; Section 4900 et seq., Family Code; Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and II.; and 20 CFR 404.1505.</p>	
<b>12-702</b>	<b>GENERAL REQUIREMENTS</b>	<b>12-702</b>
	<p>.1 Each local child support agency shall submit to DCSS all eligible cases as prescribed in Manual of Policies and Procedures Sections 12-703 and 12-704.</p> <p>.2 The local child support agency shall conduct ongoing reviews to determine which cases require a social security number to qualify for tax refund intercept.</p> <p>.3 When necessary for submission, the local child support agency shall obtain the obligor's social security number within 180 days from the date the case is identified as being deficient. Whenever a local child support agency has exhausted all available resources and the social security number is still unavailable, the local child support agency shall document all actions taken in the case file.</p> <p>NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Office of Child Support Enforcement Action Transmittal 98-17, Section I.B.; and Section 17400, Family Code.</p>	
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**12-703 FTB ELIGIBILITY REQUIREMENTS****12-703**

- .1 Eligible cases shall meet the following minimum requirements:
- .11 The case shall contain a child support order established by a court of competent jurisdiction. Orders originating outside California must be registered by the submitting local child support agency.
- .12 Title IV-D assistance and non-assistance cases are eligible.
- .121 Assistance cases shall include an assignment of support rights.

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- .122 Non-assistance Title IV-D cases do not require an assignment of rights; however, the local child support agency will obtain a copy of the payment record and/or an affidavit signed by the custodial parent attesting to the amount of support owed.
- .13 Counties can submit less than the minimum criteria (FTB - \$100). The DCSS Integrated Data Base (IDB) system will consolidate all counties' arrearages and if the combined arrearages meet the minimum criteria for submission, DCSS will include the case for submission.

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- .14 The arrearage shall include all monies owed to the certifying local child support agency, overdue child support, and any other related costs included in the court order.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.102; Section 708.730, Code of Civil Procedure; Section 12419.5, Government Code; and Section 17400, Family Code.



<b>12-704</b>	<b>FMS ELIGIBILITY REQUIREMENTS</b>	<b>12-704</b>
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- .1 Eligibility for FMS intercept shall meet the following requirements:
- .11 The Title IV-D agency shall have an assignment of support right as established in Section 402(a)(26) of the Social Security Act.
    - .111 A case shall contain a delinquent amount of child support established by a court of competent jurisdiction or an administrative process.
    - .112 The county is responsible for enforcing the child support obligation.
    - .113 Title IV-D assistance and non-assistance cases are eligible.
    - .114 Interest charges may be included in the amount certified for offset by the FMS.
  - .12 Both assistance and non-assistance cases shall be submitted to the FMS and all assistance cases shall include an assignment of support rights.

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- .13 Counties can submit less than the minimum criteria (FMS TANF - \$150, FMS non-TANF - \$500). The DCSS Integrated Data Base (IDB) system will consolidate all counties' arrearages and if the combined arrearages meet the minimum criteria for submission, DCSS will include the case for submission.

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<b>12-704</b>	<b>IRS ELIGIBILITY REQUIREMENTS (Continued)</b>	<b>12-704</b>
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- .14 Title IV-D assistance case eligible requirements:
  - .141 In assistance cases spousal support can be included into the amount submitted only when a single order exists for both spousal and child support.
- .15 Title IV-D non-assistance case eligible requirements:
  - .151 The support obligation amount due is owed to a minor or a person acting on his/her behalf.
  - .152 The county shall review its records to determine if a non-assistance case in arrears also has an assistance case with arrearage.
  - .153 Spousal support is eligible for certification if it is included in the child support order.
- .16 If the submitting county cannot verify the amount owed using a copy of the payment records, the custodial parent shall sign an affidavit attesting to the amount of the child support arrears.
- .17 The Title IV-D agency shall retain a copy of all pertinent child support orders. In non-assistance cases the county shall obtain the custodial parent's current address.
- .18 Before submitting essential case information, the name and social security number of the noncustodial (NCP) parent and arrears owed shall be verified as correct by the local child support agency.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section II.B.

<b>12-705</b>	<b>BANKRUPTCY</b>	<b>12-705</b>
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- .1 A county may not certify a case in which the noncustodial parent or his or her spouse has filed for bankruptcy under Chapters VII, XI, XII, or XIII of Title 11 of the United States Code unless the automatic stay under 11 U.S.C. 362(h) of the Bankruptcy Code has been lifted or is no longer in effect and the obligation was not discharged by the bankruptcy proceeding.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 321 [42 U.S.C. 666]; Office of Child Support Enforcement Action Transmittal 98-17, Section II.D.

<b>12-706</b>	<b>INTERSTATE SUBMISSIONS</b>	<b>12-706</b>
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- .1 The FMS Tax Refund Intercept Program is a federal enforcement program; therefore, registration of another state's court order in a California court is not required prior to submission to FMS.

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- .2 The county in which the aid assignment or non-assistance application for Title IV-D services has been filed must submit the past-due support for federal tax refund or administrative offset.
- .3 If a county submits a case for federal income tax refund or administrative offset on the basis of another state's child support order, the submitting county shall comply with the other state's laws regarding offsets.
- .4 When determining the arrears amount for certification, the submitting jurisdiction shall provide the current arrearage at the time of certification.

.41 Multiple Orders

- .411 If there are multiple orders in the case being certified and a tribunal has entered a Controlling Order determination under UIFSA, the amount of the arrears determined pursuant to the UIFSA registration action is binding upon all other jurisdictions.
- .412 A jurisdiction that issued one of the multiple orders used in the Controlling Order determination may certify the arrears owed under their order as determined by the tribunal issuing the Controlling Order determination.
- .5 If an intercept is received, the submitting jurisdiction shall notify the other jurisdiction of the collection.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and II.E.

12-707	CERTIFICATION	12-707
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- .1 Local child support agency shall ensure that requests for tax refund, lottery, and administrative intercepts are submitted properly and contain correct information identifying the NCP and the amount of delinquency.
- .2 Local child support agency shall complete and sign a statement certifying under the penalty of perjury the accuracy of the information submitted.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.102; Section 708.730, Code of Civil Procedure; Section 12419.5, Government Code; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.A.

<b>12-708</b>	<b>SUBMISSION CRITERIA FOR FC CASES AND STATE-ONLY AIDED CASES</b>	<b>12-708</b>
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- .1 Foster Care (FC) cases shall meet the following submission requirements:
  - .11 Federal FC cases with arrearages will be submitted as TANF FMS Tax Refund Intercept Program cases.
  - .12 State-only and county-only FC cases with arrearages shall only be submitted as non-TANF FMS Tax Refund Intercept Program cases.
  - .13 Assigned arrearages accrued before going on aid shall be included into the FC arrearage certification.
  - .14 For cases which go on and off aid, all arrearages shall be assigned through the last month aid is collected.
- .2 Non-Federal aid category cases shall be submitted as non-TANF FMS Tax Refund Intercept Program cases.
- .3 Federal Aid Category cases shall be submitted as TANF FMS Tax Refund Intercept Program cases.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Office of Child Support Enforcement Action Transmittal 98-17, Section I.B.; and Section 17400, Family Code.

<b>12-709</b>	<b>INTERCEPT WARNING NOTICE TO NONCUSTODIAL PARENTS (NCPs)</b>	<b>12-709</b>
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- .1 NCPs will be notified by DCSS prior to intercept that his/her name will be referred for FTB and/or FMS tax interception.
  - .11 The Child Support Warning Notice (DPS 236) will contain, at a minimum, the following information:
    - .111 Amount certified by the local child support agency at notice issuance.
    - .112 The name, address, and phone number of the county submitting the individual to be intercepted.
    - .113 The NCP's right to contest the referral and request an administrative review within 30 days from the date of notice (see Section 12-712 for complaint procedure).

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**HANDBOOK CONTINUES**

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12-709	INTERCEPT WARNING NOTICE TO ABSENT PARENTS (Continued)	12-709
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- .114 Possible reasons for disagreeing with the action such as no support judgment has been entered against the NCP, the support amount(s) shown as past due is incorrect, or the automatic stay under 11 U.S.C. 362(h) of the Bankruptcy Code has not been lifted or is still in effect.

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- .2 If DCSS does not have an address for a submission, the notice will be sent to the submitting local child support agency for addressing and mailing.
- .21 If a local child support agency does not have any address information for an NCP, the local child support agency shall delete the NCP's name from the intercept submission list.
- .3 In cases in which the intercept warning notices are returned as undeliverable by the post office, the local child support agency shall attempt to identify a more current address.
- .31 If a more current address is not available, the notice and envelope shall be placed in the case file and the file annotated to document the attempt to mail.
- .32 Notices that are undeliverable due to clerical or typographical errors shall be corrected and mailed by the local child support agency.
- .33 Cases in which all attempts to notify the NCP have been made, but are unsuccessful shall not be deleted from the intercept process.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of civil Procedure; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Sections I. and III.A.

12-710	UPDATES	12-710
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- .1 Local child support agencies shall update individual case arrearage amounts and submit the updates to DCSS at least monthly when the certified arrearage amount has changed.
- .2 Updates shall be submitted in the manner prescribed by DCSS.
- .3 Repealed by Manual Letter No. CS-99-04, effective 11/24/99.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of Civil Procedure; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section IV.A.

<b>12-711</b>	<b>ALLOCATION OF INTERCEPT COLLECTIONS</b>	<b>12-711</b>
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- .1 Intercepted refunds are forwarded to the local child support agency by DCSS.

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- .2 Intercepted FMS tax and administrative intercept, FTB tax intercept, and lottery intercept collections must be distributed in accordance with the distribution regulations set forth in Sections 12-415 and 12-420.
- .3 If the amount collected and forwarded to a local child support agency exceeds the current certified arrearage, that local child support agency shall research the statewide master file for additional certified arrearages in other counties.
- .31 If an additional certified arrearage exists in another county, the county shall:
- .311 Confirm the obligation,
- .312 Notify the NCP, and
- .313 Transfer the money to the other county(ies).
- .32 Repealed by CDSS Manual Letter No. CS-99-04, effective 11/24/99.

NOTE: Authority cited: Sections 17302, 17310, 17312, 17-316, 17400, 17402, and 17406, Family Code. Reference: Section 11477, Welfare and Institutions Code; Section 17416, Family Code; Section 695.221, Code of Civil Procedure; Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193), Section 457(a)(2)(B)(iv) [(42 U.S.C. 657(a)(2)(B)(iv)]; and Office of Child Support Enforcement Action Transmittal 97-17, Sections V(a), (b), (c), and (d); and 98-17, Sections I.B. and II.A.2.

12-712	ADMINISTRATIVE REVIEW PROCEDURES	12-712
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Repealed by regulation package R-1-01E, effective 7/24/02.

12-713	INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS	12-713
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- .1 Before returning offset money, the statewide FTB/FMS master file shall be checked to assure the taxpayer appears on the list and to identify any obligation in another county.
  - .11 If the taxpayer is not listed, the county shall contact the DCSS Systems Unit. If the taxpayer is listed for another county(ies), the county shall contact the other county(ies) regarding intercept transfer arrangements.
    - .111 The county shall send the taxpayer a letter advising him/her of the transfer.



<b>12-713</b>	<b>INSTRUCTIONS FOR RETURNING EXCESS INTERCEPTS (Continued)</b>	<b>12-713</b>
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- .2 If there are no additional certified or uncertified arrearages in other counties, local child support agencies shall refund excess monies intercepted to the NCP within 15 working days from the day the county receives the appropriate collection report/file, regardless of whether or not the local child support agency has received the intercepted funds.
- .3 When excess intercepted monies which are refunded to the taxpayer by a local child support agency are returned by the post office as undeliverable, the county shall:
  - .31 Research available county records for another address, using FTB/FMS address information whenever possible, and remail the refund if another address is available.
  - .32 Retain and not return the undeliverable monies to FTB, Lottery, or FMS.
  - .33 Deposit the over offset money into a special fund if a better address is not available.
  - .34 Hold monies for at least three years before disposition from the special fund.
- .4 All monies returned to the taxpayer shall be paid in accordance with the name(s) of the offset notice.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Section 17400, Family Code; Section 708.731, Code of Civil Procedure; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.

<b>12-714</b>	<b>FMS OFFSET FEES</b>	<b>12-714</b>
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- .1 The county shall pay an offset fee for TANF and non/TANF offsets. the county's share of the offset fee shall be deducted from the county's administrative advance.
  - .11 The amount billed shall be based upon the number of offsets received each month by individual counties and the current FMS charge per offset.
  - .12 Repealed by CDSS Manual Letter No. CS-99-04, effective 11/24/99.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) Section 103 [42 U.S.C. 401(a)]; Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17, Section I.

<b>12-715</b>	<b>SUBMISSION AUDITS</b>	<b>12-715</b>
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- .1 Ten percent (10%) of the cases submitted for offset shall be reviewed annually by the counties. If findings warrant, an additional ten percent shall be reviewed. If the problem continues to occur, the sample shall be expanded to address all submissions.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Section 17400, Family Code and 45 CFR 303.72(a)(5).

<b>12-716</b>	<b>JOINT FMS RETURNS</b>	<b>12-716</b>
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- .1 All joint FMS returns and community property complaints concerning FMS tax refund intercepts shall be referred to the local FMS office.

NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); 45 CFR 303.72 and 303.102; Section 708.730, Code of Civil Procedure; and Section 17400, Family Code.

<b>12-717</b>	<b>NEGATIVE FMS ADJUSTMENTS</b>	<b>12-717</b>
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- .1 If a county has made a refund to the taxpayer and has notified DCSS of this, OCSE shall inform FMS which will then notify the nonobligated spouse that no adjustment will be made.
- .2 If the county has made no payment or partial payment to the taxpayer, FMS will proceed to make the appropriate refund to the nonobligated spouse and adjust the state's account. The adjustment will be passed on to the appropriate county(ies).

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**HANDBOOK ENDS HERE**

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NOTE: Authority cited: Sections 17302 and 17400, Family Code. Reference: Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193); Section 17400, Family Code; and Office of Child Support Enforcement Action Transmittal 98-17.